

**MINUTES OF THE REGULAR MEETING OF THE  
SAN MARCOS PLANNING AND ZONING COMMISSION  
CITY COUNCIL CHAMBERS  
October 14, 2008**

**1. Present**

**Commissioners:**

Sherwood Bishop, Chair  
Bill De Soto  
Ryan Thomason  
Bill Taylor  
Curtis Seebeck  
Allen Shy  
Cecil Pounds (absent)  
Jim Stark  
Randy Bryan

**City Staff:**

Chance Sparks, Development Services Manager  
Cecil Pennington, Long Range Planning Coordinator  
Bill Couch, Development Projects Coordinator  
Phil Steed, Planner  
John Foreman, Sr. Planning Tech.  
Francis Serna, Recording Secretary

**Others Present:** Helen Floyd, Don Griggs, Michelle Bludworth, Paul Levine, Greg Dandrea, Will Parrish, Nanci Lancaster, Lacy Patterson, Paul Loosch, Tom Rhodes and others.

**2. Call to Order and Announce a Quorum is Present.**

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Bishop at 6:00 p.m. on Tuesday, October 14, 2008 in the Council Chambers of the City of San Marcos City Hall, 630 E. Hopkins, San Marcos, Texas 78666.

**3. Chairperson's Opening Remarks.**

Chair Bishop welcomed the audience and the television viewers.

**4. Executive Session**

There were no discussions.

## **5. Citizen Comment Period**

No one signed up to speak.

Chair Bishop introduced Laurie Anderson, Assistant City Manager.

Laurie Anderson, Assistant City Manager responsible for Development Services, informed the Commission about the realignment of city departments by Rick Menchaca, City Manager. She explained that the Development Services Department is created of Planning, Engineering and the Permit Center, which will increase customer satisfaction and continue to provide services promptly and efficiently. In addition, a Capital Improvements Department has been created. Ms. Anderson stated that Chance Sparks will manage current planning and Cecil Pennington will handle long range planning and special projects. She asked the Commission to join her in recognizing Cecil Pennington for his dedicated service to the City of San Marcos as Interim Planning Director, November 2007 - October 2008. Ms. Anderson presented a plaque to Cecil Pennington.

## **6. CUP-08-28. Hold a public hearing and consider a request by Brian Montgomery for renewal of a TABC Conditional Use Permit to allow the on-premise consumption of liquor, beer, and wine for The Wine Cellar, an establishment located at 202 N. LBJ.**

John Foreman recapped the September 23, 2008 Planning Commission meeting and advised the Commission that staff has received the report which certifies that sales of alcohol make up 36.13% of total sales for the twelve month period from September 1, 2007 through August 31, 2008. In addition, the applicant has stated that a system has been created to track sales of alcohol for on-premise consumption in order to meet the reporting requirement in the future. Staff recommended approval of the CUP for three (3) years, provided standards are met, subject to the point system and that the applicant meets all requirements for a Restricted TABC CUP.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

Commissioner DeSoto thanked staff for working with the applicant.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Taylor, the Commission voted eight (8) for and none (0) opposed, to approve the request for three (3) years, provided standards are met, subject to the point system and that the applicant meet all requirements for a Restricted TABC CUP. The motion carried unanimously. Commissioner Pounds was absent.

## **7. CUP-08-31. Hold a public hearing and consider a request by Maricela Ramos for renewal of a TABC Conditional Use Permit to allow on-premise consumption of beer and wine for Tex Mex Sport Bar, an establishment located at 1700 IH 35 South.**

John Foreman explained that the current owner operated the business under a different name and received a CUP in August 2006. In October 2006, the applicant applied and received an amendment to the CUP in the current name of the business. In September 2007, the Planning Commission approved a one-year renewal. Mr. Foreman explained that police incident reports were included in their agenda packets. He pointed out that there were several incident reports, but after speaking with someone at the Police Department, they felt that the incident reports were not of concern because several reports were outside the business and no points were assessed. He added that the 2007 CUP was conditioned upon the pole sign in front of the building continue with the sign regulations and move the sign 10' back from the property line. He mentioned the

business has been in operation for twenty years and is a non conforming use. However, staff has concerns about the number of incidents and suggested that the request be approved for one year to allow staff to monitor the business. Staff recommended approval of the request for one year, provided standards are met, subject to the point system and if the freestanding sign is used, the pole sign must be set back ten (10) feet from the property line.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

Several Commissioners pointed out that there were several incident reports.

Commissioner Shy commented that most of the reported incidents included foot patrol, warrant arrest and everything that happens outside of the business. He inquired on why staff recommended approval for one year.

John Foreman explained that due to the several incident reports, a one year approval would allow staff to monitor the business. He stated that the business currently has 2 points assessed from a 2007 incident.

The Commission briefly discussed if one or three years was appropriate. The Commission agreed on one year.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Stark, the Commission voted eight (8) for and none (0) opposed, to approve the request for one year, provided standards are met, subject to the point system and if the freestanding sign is used, the pole sign must be set back ten (10) feet from the property line. The motion carried unanimously. Commissioner Pounds was absent.

**8. ZC-08-17. Hold a public hearing and consider a request by Copper Beech Townhome Communities for a zoning change for +/- forty acres of property bounded by IH 35 (1811-1813 N. IH 35) on the east and the Railroad Track on the west, located at the north end of Mills Street from Light Industrial (LI), Heavy Industrial (HI), and General Commercial (GC) to Multi-Family Residential (MF-12)-medium density.**

Bill Couch explained that the proposed project is a multifamily development of apartments with approximately 400 units. Copper Beech Townhome is named as a Townhouse Community. The project will extend Mills Street into the project site and provide a residential street connection with the IH 35 frontage road. Mr. Couch advised the Commission that MF-12 is the lowest category of multi-family in the Land Development Code. He stated that the surrounding properties are zoned and developed in a compatible manner. He advised the Commission that the applicant has submitted the metes and bounds survey, therefore, does not need to be included as a condition. Staff recommended approval of the request.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Taylor and a second by Commissioner Seebeck, the Commission voted eight (8) for and none (0) opposed, to approve the request. The motion carried unanimously. Commissioner Pounds was absent.

**9. PDA-08-01. Hold a public hearing and consider a request by NRP Properties, LLC (Developer) in cooperation with Reece and Beverly Morrison (Property Owners) for a Petition for Development Agreement (PDA) for approximately 19.68 acres located at 1800 Post Road.**

Bill Couch advised that the applicant, the property owners and their attorney were available to answer questions. He stated that Encino Pointe is proposed to be a Multi-Family Development of approximately 252 units on 19.68 acres of land adjacent to the City Limits. He explained that the proposed development is for low income housing in an apartment style complex. Mr. Couch added that the Development Agreement outlines the necessary steps and commitments of the parties; it is used in lieu of an out of City utility services extension request. The property owner obtained a service commitment for two water taps some years back in exchange for a water line that crosses the property. He further explained that the applicant will be responsible for installing the utilities and no cost participation is proposed. In addition, the development will meet or exceed the City development standards for a multi family development as if the project were in the city limits. Staff recommended approval of the request with the condition that the applicant will provide in the Development Agreement and Plat the necessary ROW, utility easements, and allow annexation along the front of the property extending north along Post Road with, or without, annexation of the subject tract for future extension of city services including utilities, roadway improvements, and annexation of other properties.

Chair Bishop asked staff for a brief overview of a Petition for Development Agreement process.

Bill Couch gave a brief overview of the process. He added that this PDA has been the second one processed in the last two years.

Rob Killen, attorney with Kaufman & Associates, Inc. and for the developer thanked staff, Bill Couch and Cecil Pennington for their time spent on the project. Mr. Killen introduced Debra Guerrero with NRP and stated that she would give a brief overview of the project.

Debra Guerrero, NRP Group, San Antonio, Texas, stated that they have developments all over the United States. She provided the Commission with handouts of the proposed Encino Pointe Development and gave a brief overview of the project. Ms. Guerrero pointed out that the multi family development will target working families and asked the Commission to view page 22 for a list of qualifying tenants. She added that they are in partnership with Jim Shaw, the Capital Area Housing Finance Corporation. She stated that it is very important to have a stable, solid financing partner for long term. Ms. Guerrero advised that she was available to answer questions. She encouraged the Commission to tour the current properties so that they could see the quality of homes. She said that they will continue to work with the communities to answer any questions that arise. She introduced Jim Shaw.

Jim Shaw, Financing Partner with Capital Area Housing Finance Corporation stated that they are a nine county regional finance corporation. He explained that they are a public entity operating under State Law. He reiterated that the development is working families. Mr. Shaw stated that the PDA is revolved around the city, which will be built to city standards and will be annexed. He added that the goal is to have long term ownership and that the property will not be sold. Mr. Shaw added that the representative from Loomis Engineers was also available to answer questions.

Commissioner DeSoto inquired on eligibility requirements.

Jim Shaw referred the Commission to page 21 of the handout and explained that prospective owners must meet the 60% AMI (Area Medium Income). In addition, he pointed out page 22 that lists the Qualifying Tenants.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Shy, the Commission voted eight (8) for and none (0) opposed, to approve the Petition for Development with the condition that the applicant provide in the Development agreement and Plat the necessary ROW, utility easements, and allow annexation along the front of the property extending north along Post Road with, or without, annexation of the subject tract for future extension of city services including utilities, roadway improvements, and annexation so of other properties. The motion carried unanimously. Commissioner Pounds was absent.

**10. PC-08-24(04). Hold a public hearing and consider a request by Shawn Ash for approval of a replat of Lots 237-240 of Zach Williamson's Third Addition and .04 acres out of the Westover Addition located in the 1000 block of Del Mar Street and Clyde Street.**

Phil Steed recapped the September 23, 2008 meeting stating that the item was incorrectly posted. The posting has been corrected and therefore the Commission may action on the request. Mr. Steed explained that the applicant is proposing to replat lots into six residential lots. He stated that the application has been reviewed by staff and that the request meets all city standards. Staff recommended approval of the replat as submitted.

Chair Bishop opened the public hearing. There were no comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Taylor and a second by Commissioner Thomason, the Commission voted eight (8) for and none (0) opposed, to approve the request. The motion carried unanimously. Commissioner Pounds was absent.

**11. PC-08-25(04). Hold a public hearing and consider a request by Pro-Tech Engineering Group, Inc., for approval of a replat of Lot 1, Mockingbird Hill Village Two, Section 3, and Lots 1 & 2, Mockingbird Hill Village Two, Section 5, located at 601 Leah Avenue.**

Phil Steed stated that the owner is proposing to replat one lot for Section 3 and two lots for Section 5 of the Mockingbird Hill Village Two into one lot. The location is the future site to medical office and minor surgery facilities. He pointed out that there are adequate utilities for the property. Mr. Steed added that the property is zoned Office Professional which is compatible to the surrounding land uses. The replat is subject to all requirements of the Land Development Code; and has been reviewed for consistency with existing City Ordinances and Policies. Staff recommended approval of the request as submitted.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Thomason and a second by Commissioner Bryan, the Commission voted seven (7) for and none (0) opposed, and Commissioner Seebeck abstained to approve the request. The motion carried. Commissioner Pounds was absent.

Cecil Pennington explained the replatting process and State Law requirements for the new Commissioners.

**12. WPP1-08-0001. Hold a public hearing and consider a request by Baker Aicklen Inc., agent for The Stratford Company for approval of a Qualified Watershed Protection Plan Phase 1 for a 259.807 acre tract in the Cyrus Wickson Survey, A0474 and Nathaniel Hubbard Survey, A0230, San Marcos, Hays County, Texas – being the proposed McCarty Commons development, located in the 3200 – 3600 block of South IH -35, San Marcos, Texas.**

Cecil Pennington explained that the request is in conjunction with the McCarty Commons PDD which consists of 260 acres and has been forwarded to City Council. Kathy Woodlee was unavailable to attend the meeting therefore Mr. Pennington gave an overview of the staff report. Staff recommended approval of the request as submitted.

Chair Bishop explained that the Commission's role is to protect the environment by mitigation if an applicant is requesting to make changes to the floodway or natural areas and to protect the interest of the community if the changes affect the appearance that may impact negatively. He mentioned that in this case the floodway will become parkland which makes it easy for the Commission.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

Commissioner Stark inquired if the floodplain would change.

David Kneupper, Baker-Aicklen & Associates, Inc. advised that there would not be a whole lot of grading. He stated that the floodplain and floodway is very wide and has a minimal slope. Mr. Kneupper added that with the CLOMR, they have acquired more accurate information than what FEMA currently has.

Cecil Pennington explained to the Commission the process of a CLOMR.

**MOTION:** Upon a motion made by Commissioner Thomason and a second by Commissioner Seebeck, the Commission voted eight (8) for and none (0) opposed, to approve the request. The motion carried unanimously. Commissioner Pounds was absent.

**13. Planning Issues.**

Discuss and consider rescheduling the November 11, 2008 Planning and Zoning Commission meeting due to Veteran's Day Holiday.

The Commission discussed possible dates and agreed by consensus to reschedule the November 11, 2008 Planning and Zoning Commission meeting to Thursday, November 13, 2008 at 6:00 p.m.

**14. Discussion Items:**

**Planning Director's Report**

Chance Sparks thanked Cecil Pennington for his hard work the past year. Mr. Sparks told the Commission that he looks forward to working with them in his new role as Development Planning Manager.

Cecil Pennington commented that the Commission will be in good hands.

### **Commissioners' Report**

Chair Bishop reminded all of the Mayor's State of the City Address to be held on Thursday, October 16, 2008 starting at 6:00 and the Mayor's speech at 7:00 p.m. He encouraged all to attend.

Commissioner Seebeck requested that the minutes reflect unexcused or excused absences.

Cecil Pennington explained that unexcused absences can be appealed and that minutes may not be finalized until the process is complete.

The Commission and staff discussed possibilities. Chance Sparks advised the Commission that staff would look into it and report at the next Planning and Zoning Commission Director's Report.

Commissioner Thomason suggested that the motion and votes include all the Commissioner's names.

Commissioner Seebeck asked if a workshop regarding Robert's Rule of Order was going to take place as previously discussed at a past meeting.

Cecil Pennington stated that a workshop will be scheduled.

Chair Bishop advised staff that they should find out by the applicant if they would like to make a presentation and if they do want to make a presentation advise him prior to the meeting how much time they need.

### **15. Consider approval of the minutes from the Regular Meeting of September 23, 2008.**

**MOTION:** Upon a motion made by Commissioner Thomason and a second by Commissioner Shy, the Commission voted six (6) for, zero (0) opposed, and Commissioner Seebeck and Bryan abstained, to approve the Regular Meeting Minutes of September 23, 2008 with corrections. The motion carried.

### **16. Questions and answers from the Press and Public.**

There were no questions from the press and public.

**17. Adjournment**

**MOTION:** Upon a motion made by Commissioner Taylor and second by Commissioner Bryan the Commission voted eight (8) for and none (0) opposed, to adjourn the regular meeting of the Planning and Zoning Commission at 7:30 p.m. on Tuesday, September 23, 2008. The motion carried unanimously. Commissioner Pounds was absent.

  
Sherwood Bishop, Chair

  
Ryan Thomason, Vice Chair

  
Jim Stark, Commissioner

  
Curtis Seebeck, Commissioner

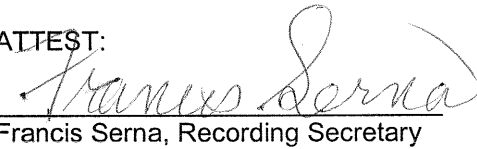
  
Bill DeSoto, Commissioner

  
Bill Taylor, Commissioner

  
Allen Shy, Commissioner

  
Randy Bryan, Commissioner

ATTEST:

  
Francis Serna, Recording Secretary